

# In the United States Court of Federal Claims

## OFFICE OF SPECIAL MASTERS

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|---------------------|---|-----------------------------------|
| JENNIFER ROBI,      | * | No. 13-734V                       |
|                     | * |                                   |
| Petitioner,         | * | Special Master Christian J. Moran |
|                     | * |                                   |
| v.                  | * | Filed: June 26, 2015              |
|                     | * |                                   |
| SECRETARY OF HEALTH | * | Attorneys' fees and costs; award  |
| AND HUMAN SERVICES, | * | in the amount to which respondent |
|                     | * | does not object.                  |
| Respondent.         | * |                                   |

\* \* \* \* \*

Sol P. Ajalat, Ajalat & Ajalat, North Hollywood, CA, for petitioner;  
Debra A. Filteau Begley, United States Dep't of Justice, Washington, D.C., for  
respondent.

### **UNPUBLISHED DECISION ON FEES AND COSTS<sup>1</sup>**

On June 24, 2015, petitioners filed a stipulation of fact concerning final attorneys' fees and costs in the above-captioned matter. Previously, petitioner informally submitted a draft application for attorneys' fees and costs to respondent for review. Upon review of petitioner's application, respondent raised objections to certain items. Based on subsequent discussions, petitioner amended her application to request \$38,365.08, an amount to which respondent does not object. The Court awards this amount.

On September 25, 2013, Jennifer Robi filed a petition for compensation alleging that the human papillomavirus ("HPV") vaccines administered to her on March 4, 2010, June 29, 2010, and January 20, 2011, and influenza ("flu")

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<sup>1</sup> The E-Government Act of 2002, Pub. L. No. 107-347, 116 Stat. 2899, 2913 (Dec. 17, 2002), requires that the Court post this ruling on its website. Pursuant to Vaccine Rule 18(b), the parties have 14 days to file a motion proposing redaction of medical information or other information described in 42 U.S.C. § 300aa-12(d)(4). Any redactions ordered by the special master will appear in the document posted on the website.

vaccines administered on October 1, 2010, and September 12, 2011, caused her to develop an acquired demyelination neuropathy or an aggravation of existing fibromyalgia.

During status conferences, the parties discussed the need for petitioner to obtain a report from an expert, opining that a vaccination harmed her. Because the medical records do not support Ms. Robi's claim, a medical opinion must be offered in support. Ms. Robi, however, has offered no such opinion. See Pet'r's Motion for a Judgment on the Record, filed March 13, 2014. In this ruling, compensation was denied. Decision, dated April 15, 2015.

Even though compensation was denied, petitioners who brings their petition in good faith and who have a reasonable basis for the petition may be awarded attorneys' fees and costs. See 42 U.S.C. § 300aa-15(e)(1). Here, counsel for petitioner gathered and filed medical records, attempted to obtain an expert report, and moved for a decision on the record when further investigation revealed that petitioner were unlikely to prove her case. Thus, because petitioner's counsel acted in good faith and because there was a reasonable basis for proceeding, petitioner is eligible for an award of attorneys' fees and costs. Respondent does not contend that petitioner failed to satisfy these criteria.

Petitioners seek a total of **\$35,865.08** in attorneys' fees and costs for their counsel. Additionally, in compliance with General Order No. 9, petitioner states that she incurred **\$2,500.00** in out-of-pocket litigation expenses while pursuing this claim. Respondent has no objection to the amount requested for attorneys' fees and costs.

After reviewing the request, the Court awards the following:

- a. A lump sum of \$35,865.08 in the form of a check made payable to petitioner and petitioner's attorney, Sol P. Ajalat, Esq., for attorneys' fees and other litigation costs available under 42 U.S.C. § 300aa-15(e).**
- b. A lump sum of \$2,500.00, payable to petitioner, Jennifer Robi, for costs she incurred in pursuit of her petition.**

The Court thanks the parties for their cooperative efforts in resolving this matter. The Clerk shall enter judgment accordingly.

Any questions may be directed to my law clerk, Christina Gervasi, at (202) 357-6360.

**IT IS SO ORDERED.**

s/Christian J. Moran  
Christian J. Moran